

## FISCAL NOTE

HB 1377 - SB 1654

March 12, 2001

### SUMMARY OF BILL:

1. Authorizes the Department of Finance and Administration to enforce the interests of a state-sponsored health insurance plan in regard to subrogation claims and improperly paid benefits.
2. Authorizes a state-sponsored health insurance plan to:
  - Recover any benefits paid to a covered employee who also received benefits from another source for the same reason the plan has paid benefits. A plan could assert such a subrogation interest despite any language in a document or order that excluded the plan's interest or assigned another reason for payment of the recovery.
  - Assign and delegate the plan's subrogation interest to a contractor. The plan would have to delegate the interest in writing and could include limitations on the delegation. The plan would retain the power to revoke the delegation. A contractor enforcing a delegated right would bring any lawsuit in the name of the contractor rather than in the name of the state.
3. Authorizes the state to recover benefits improperly paid to an ineligible person. The state could recover up to the full amount of improperly paid benefits from the ineligible person, from the employee or the former employer who allowed the ineligible person to receive benefits, or from both.

Under present law, state employees, local education employees, and local government employees may receive coverage through state-sponsored health insurance plans. Covered employees have assigned to the state health insurance plan the right to recover third-party benefits to which the covered person may be entitled.

### ESTIMATED FISCAL IMPACT:

#### Decrease State Expenditures - Exceeds \$100,000

Estimate assumes the total decrease in state expenditures cannot be determined but can be reasonably estimated to exceed \$100,000.

For information purposes:

- State-sponsored health insurance plans make benefit payments even when there is another party that may be obligated to pay the medical expenses. This most often occurs when an employee who is covered in the state-sponsored plan has an accidental injury. The payment is made as a convenience to the plan member and the provider and is done under the premise of reimbursement when the matter is settled in the future.
- Chapter 807 of the Public Acts of 2000 provided the state or local administering insurance company the ability to subrogate so that if a person who has received payment for medical services from the Plan subsequently receives compensation for the injury requiring the medical services, the Plan can recover its costs from the compensation received.
- The Tennessee Supreme Court has limited subrogation rights by imposing the "made whole" doctrine which means that the state-sponsored plan cannot recover its payments unless the injured party has full compensation for all damages claimed from the accident or injury.

### CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director

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